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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/521,212 | 01/13/2005 | Max Segerljung | 821-69 | 2742 |

7590 04/13/2007
Dilworth & Barrese
333 Earle Ovington Boulevard
Uniondale, NY 11553

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| EXAMINER |
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LOPEZ, FRANK D

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| ART UNIT | PAPER NUMBER |
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3745

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 04/13/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/521,212 | SEGERLJUNG, MAX | |
| | Examiner | Art Unit | |
| | F. Daniel Lopez | 3745 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on February 2, 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 2, 2007 has been entered.

Response to Amendment

Applicant's arguments filed February 2, 2007, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 1-21 have been considered but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the added limitations that there is at most a single valve in first and second passages connecting a single pump to first and second ports of an hydraulic drive means.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 2-4, 7, 13-21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, 3 line 2, claim 4 line 3, claim 7 line 4 and claim 21 line 5 "said circuit" and claim 13 line 5 "said conduit circuit" has no antecedent basis, since it was deleted from claim 1 and replaced by first and second passages. There may be other occurrences of "circuit, which may need to be amended, depending on how these claims are amended.

In claim 21 line 5-6 "said single valve positioned...between said pump...and one...of said...chambers" appears to repeat the limitation of claim 1 line 18-19. Furthermore, it is unclear whether this claim is claiming that the single valve is in one of the passages or may be in one of the passages (i.e. is a or is at most a single valve).

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

Claims 1, 2, 4, 5, 12-15 and 21, inasmuch as they are definite, are rejected under 35 U.S.C. § 102(b) as being anticipated by Gellatly. Gellatly discloses a hydraulic system comprising a hydraulic drive means including a cylinder (11, column 3 line 33-34) having chambers on opposite sides of a piston, connected, by first and second passages (28, 33), respectively, to first and second ports (16, 17) of a pump (12), driven by an electric motor (13); with a single valve (36) in one of the first and second passages; wherein a tank (14) is connected to the first and second passages, by first (e.g. 22) and second (e.g. 37) conduits, each having a valve (23, 45, respectively).

Claims 1, 2, 4, 6, 10, 12-17 20 and 21, inasmuch as they are definite, are rejected under 35 U.S.C. § 102(b) as being anticipated by Hewett (see discussion below). Note that the limitation "at most a single valve " (claim 1 line 18) includes no valve.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3745

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 3, 5, 7-9, 11, 18 and 19 are rejected under 35 U.S.C. § 103 as being unpatentable over Hewett in view of Rosman. Hewett discloses a hydraulic system comprising a hydraulic drive means including a cylinder (12) having chambers on opposite sides of a piston, connected, by first and second passages (36, 38; 44, 46), respectively, to first and second ports (32, 34) of a pump (30), driven by a motor (31); wherein a tank (50) is connected to the first and second passages, by first (e.g. 58) and second (e.g. 48) conduits, each having a valve (60, 42, respectively); wherein the motor is powered by energy regenerated by means for regenerating mechanical energy transmitted to the hydraulic drive means, due to loading of the hydraulic drive means (e.g. column 3 line 26-31); but does not disclose that the motor is an electric motor, that the pump controls a flow rate of liquid in the passages to control the effective rate of the drive means; that the regeneration means includes the motor driven as a generator by the pump, with at least one rechargeable battery to store the regenerated energy; wherein the motor is powered by the regenerated energy stored in the battery.

Rosman teaches, for a hydraulic system comprising a hydraulic drive means including a cylinder (17) having a chamber, connected, by a passage (38), to a pump (30), driven by an electric motor (31); and having a tank (17) connected to the conduit by valves (43, 44); wherein the motor is powered by energy regenerated by means for regenerating mechanical energy transmitted to the hydraulic drive means, due to loading of the hydraulic drive means (e.g. column 3 line 26-31); that the regeneration means includes the motor, being an electric motor, and being driven as a generator by the pump, with at least one rechargeable battery (32) to store the regenerated energy; wherein the motor is powered by the regenerated energy stored in the battery (column 1 line 66- column 2 line 2); and that the pump is a variable flow pump, which controls a flow rate of liquid in the passages, for the purpose of controlling the effective rate of the drive means.

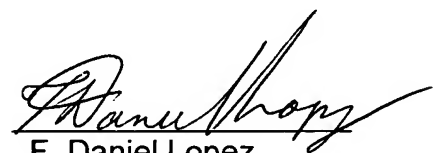
Since Hewett discloses a need for regenerating energy and Rosman discloses a system for regenerating energy; it would have been obvious at the time the invention was made to one having ordinary skill in the art to use a regeneration means, which includes the motor, being an electric motor, and being driven as a generator by the pump, with at least one rechargeable battery to store the regenerated energy; wherein the motor is powered by the regenerated energy stored in the battery, for the energy regeneration means of Hewett, as taught by Rosman, as a matter of engineering expediency.

Since Hewett and Rosman are both from the same field of endeavor, the purpose disclosed by Rosman would have been recognized in the pertinent art of Hewett. It would have been obvious at the time the invention was made to one having ordinary skill in the art to make the pump of Hewett a variable flow pump, which controls a flow rate of liquid in the passages, as taught by Rosman, for the purpose of controlling the effective rate of the drive means.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.



F. Daniel Lopez
Primary Examiner
Art Unit 3745
April 3, 2007